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★ APR 26 2017 ★

ALB:SME

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

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UNITED STATES OF AMERICA

COMPLAINT

- against -

(18 U.S.C. § 2251(a))

KEVIN RIZO,

17mj372

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

DEBRA GERBASI, being duly sworn, deposes and states that she is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations, duly appointed according to law and acting as such.

In or about and between June 2016 and April 2017, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant KEVIN RIZO did knowingly and intentionally employ, use, persuade, induce, entice and coerce a minor to engage in sexually explicit conduct for the purpose of producing visual depictions of such conduct, which visual depictions were produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce and which visual depictions were transported and transmitted using a means and facility of interstate and foreign commerce.

(Title 18, United States Code, Section 2251(a))

The source of your deponent's information and the grounds for her belief are as follows:<sup>1</sup>

1. I have been employed as a Special Agent with the Department of Homeland Security and its predecessor agencies since 2002 and am currently assigned to the Child Exploitation Group ("CEG"). I have gained expertise in child pornography and exploitation investigations through training in seminars, classes, and daily work related to conducting these types of investigations, including the execution of multiple search warrants relating to child pornography offenses and the subsequent prosecution of offenders.

2. I am familiar with this investigation based on my own personal participation, my review of documents and reports, my training and experience, and discussions I have had with other law enforcement personnel concerning this investigation and the creation, distribution, and proliferation of child pornography. Statements attributable to individuals herein are set forth in sum and substance and in part.

3. On or about November 29, 2016, a parent ("PARENT1") filed a report with an HSI tip line that her twelve year old son ("MCV1") and a second twelve year old boy ("MCV2") had been contacted by an Instagram user demanding nude photos. A subsequent interview with PARENT1 revealed that MCV1 had been contacted by an Instagram account with two monikers, hereinafter referred to as IA1 and IA2. The account holder demanded nude photos of MCV1.

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<sup>1</sup> Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

4. An interview with MCV2 on or about November 30, 2016 confirmed that MCV2 had also been contacted by IA1/IA2, and that MCV2 had responded to IA1's demand for nude photos by sending a picture of his genitals. MCV2 further stated that IA1 threatened to tell MCV2's family, friends, and Instagram followers what MCV2 had done if MCV2 did not send further photos and videos. In response, MCV2 sent approximately twenty photos and ten videos showing MCV2 exposing and touching his genitals to IA1.

5. On or about February 1, 2017, HSI Special Agents interviewed a thirteen year old boy ("MCV3") and his mother. MCV3 stated that in or about December 2016, someone contacted him asking for nude images via Instagram. When asked whether IA2 or IA1 sounded familiar, MCV3 stated that he believed he was contacted by the IA2 moniker. MCV3 stated that the account holder repeatedly asked for nude images over a period of several days. The account holder sent MCV3 a picture of an erect penis, indicating that the picture depicted MCV3. MCV3 told the interviewing agents that the picture was not of him, but stated that the account holder had threatened to send the picture to MCV3's friends if MCV3 did not send nude pictures. MCV3 denied sending any nude pictures to the account holder.

6. On or about February 14, 2017, HSI Special Agents interviewed a thirteen year old boy ("MCV4"), who stated that he had been contacted by the account IA2 in or about December 2016. MCV4 stated that the account holder asked him for nude pictures and videos and that MCV4 acquiesced, sending the account one picture and approximately one or two videos. On or about December 16, 2016, HSI agents obtained a search warrant for the Instagram account IA2 (the "December 16, 2016 Search Warrant.").

That search revealed the following communication between MCV4, using his Instagram moniker ("MCV4I"), and IA2 from December 5, 2016:

IA2: "Send and I'll send back."  
 MCV4I: [Sends a photo of his penis]  
 IA2: "Chill"  
 IA2: "Is that u??"  
 MCV4I: "Yeah"  
 IA2: "Show me a few more"  
 IA2: "I wanna make sure it's u".  
 IA2: "But the whole thing even the tip".  
 MCV4I: [Sends a photo of his penis]  
 MCV4I: "idk why but Instagram zooms in".  
 IA2: "Plz".  
 MCV4I: "What ?"  
 IA2: "LOL just take the shot further away".  
 IA2: "Use the insta camera"

7. Records obtained from Instagram pursuant to the December 16, 2016

Search Warrant revealed conversations between IA2 and several other teenage boys. Those conversations were threatening in nature and sexually explicit.

8. On or about October 28, 2016, a thirteen year old boy living in Nassau County ("MCV5") and his father reported to Nassau County Police officers that an Instagram user with the account name IA1 had requested a friendship with MCV5 on Instagram, asked to communicate via Snapchat using the account moniker hereinafter referred to as SA1, and then asked MCV5 for nude photos. When MCV5 refused, SA1 stated that she would kill herself if MCV5 refused to send photos. In response, MCV5 sent a nude photo. SA1 threatened to tell "[her] father" or call the police if MCV5 did not send additional photos. Since approximately June 2016, MCV5 has sent SA1 nude photos on approximately a daily basis, out of fear that SA1 would follow through on those threats.

9. During one of the aforementioned conversations, SA1 provided MCV5 with a phone number. A search of law enforcement databases revealed that that phone number is associated with a Nextplus account. Subscriber records for the Nextplus account associated with that phone number revealed that the account was subscribed to the user email rkiisilent@gmail.com. Additionally, information obtained from Nextplus indicated that the account had been logged into through the IP address 69.203.13.166 on or about October 2, 2016, October 4, 2016, October 12, 2016, October 16, 2016, October 28, 2016, and October 31, 2016.

10. Information obtained from Internet Service Provider Time Warner Cable via subpoena indicates that the IP address 69.203.13.166 was assigned to an account holder located at the defendant KEVIN RIZO's residence (the "Flushing Address") on or about October 4, 2016, October 28, 2016 and October 31, 2016.

11. On or about December 2, 2016, a fourteen year old boy residing in Nassau County ("MCV6") and his parents reported to Nassau County Police officers that on November 30, 2016, MCV6 had been contacted by an Instagram user with the moniker IA2, who demanded nude photos. When MCV6 refused, IA2 sent MCV6 a message saying, "well it would be a shame if this got out of hand" and sent a screen shot of MCV6's sister's Instagram page and MCV6's mother's Facebook status. MCV6 then sent videos and photos of his penis to IA2. On December 1, 2016, IA2 directed MCV6 to create additional videos and instructed MCV6 on what to do by saying, "Lay down and play with it." That day, MCV6's friends corresponded with IA2, and told MCV6 that IA2 had sent them nude photos of MCV6.

12. Information obtained from Instagram reveals that the same account has used the monikers IA1 and IA2 and that the IP address 69.203.13.166 has been used repeatedly to log into that account (the "Instagram Account"), including on or about December 1, 2016, when the account was in contact with MCV6. Such information also reveals that the Instagram Account is associated with the email address silenttype93@gmail.com.

13. Information obtained from Snapchat reveals that the account using the moniker SA1 (the "Snapchat Account") has repeatedly been logged into using the IP Address 69.203.13.166, including on October 28, 2016, when SA1 was in contact with MCV5. Such information also reveals that the Snapchat Account is associated with the email account silenttype3@gmail.com.<sup>2</sup>

14. On or about March 27, 2017, Nassau County detectives subpoenaed T-Mobile to obtain account information associated with the IP addresses used to log into the Instagram and Snapchat Accounts. Information obtained pursuant to that subpoena indicates that the Instagram and Snapchat Accounts were logged into using IP addresses associated with a cellular telephone assigned a particular phone number (the "Rizo Phone") between June 17, 2016 and November 21, 2016.

15. On or about April 25, 2017, a search of law enforcement records revealed that the Rizo Phone is associated with the defendant KEVIN RIZO's father at the Flushing Address.

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<sup>2</sup> Information from Snapchat reveals the existence of another account with a similar name and similar associated email address: the moniker hereinafter referred to as SA2, associated with the email account silenttype9@gmail.com.

16. On or about April 25, 2017, Magistrate Judge Steven I. Locke issued a warrant authorizing the search of the Flushing Address and the Rizo Phone. On or about April 26, 2017, law enforcement agents executed the search warrant.

17. The defendant KEVIN RIZO was at the Flushing Address at the time of the execution of the search warrant and was in possession of the Rizo Phone. I and other law enforcement agents participated in an interview of the defendant at that time. The defendant was advised of the identities of the interviewing agents and the nature of the interview. I advised the defendant of his Miranda rights. Having been advised of his rights, he agreed to waive them, verbally and in writing, and to speak with me. The defendant also consented verbally to a search of the Rizo Phone.

18. Following his waivers, in sum and substance, the defendant admitted that he had engaged in sexually explicit dialogue seeking to receive child pornography from multiple minor child victims in New York and Arizona, including such dialogue with a minor child victim as recently as a few weeks ago. He also admitted that the email accounts silenttype93@gmail.com, silenttype3@gmail.com, silenttype9@gmail, the Instagram account monikers IA1 and IA2, and the Snapchat account monikers SA1 and SA2 were his. The defendant further admitted that the Rizo Phone would contain images of child pornography both on the phone's camera roll and in a Dropbox application on the phone. The defendant stated that he had downloaded and saved child pornography to the Dropbox application on his phone.

WHEREFORE, your deponent respectfully requests that the defendant KEVIN RIZO, be dealt with according to law.



DEBRA GERBASI  
Special Agent, United States Department of  
Homeland Security, Homeland Security  
Investigations

Sworn to before me this  
26 day of April, 2017

/s/ Anne Y. Shields

THE HONORABLE ANNE Y. SHIELDS  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK